

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**ASHLEE MYERS,**

*Plaintiff,*

**v.**

**SOLAIS LIGHTING, LLC,**

*Defendant.*

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**CIVIL ACTION NO. 4:21-cv-00343**

**DECLARATION OF CHAD THOMPSON**

In accordance with 28 U.S.C. § 1746, I, Chad Thompson, declare under penalty of perjury that the following is true and correct:

1. I make this *Declaration* in support of *Defendant’s Rule 12(b)(1) Motion to Dismiss* (“Motion to Dismiss”) filed by Defendant Solais Lighting, LLC’s (“Solais”). I am over the age of 18 and have never been convicted of a felony or crime involving moral turpitude. I have personal knowledge of the facts set forth herein, and if called upon to testify thereto, I could and would competently do so under oath.

2. I am the Manager, Information Technology Security Operations for TriNet USA, Inc. (“TriNet”). I have been employed by TriNet since June 2012. In my position, I oversee a team of Information Security Analysts who are tasked with the retrieval and analysis of reports and log files relating to user access across all of TriNet’s portals. Additionally, I am closely involved with the operation of TriNet’s servers and software, security reviews, and have an in-depth understanding of TriNet’s internal and client-facing applications such as PeopleSoft and TriNet’s online platform.

3. TriNet is a licensed Professional Employer Organization (“PEO”). PEOs fulfill general administrative needs for their clients, including payroll processing and providing access to certain personnel information, documents, and notices for their client’s worksite employees.

4. TriNet maintains a password-protected online portal that provides clients and their

worksite employees access to certain employment policies, employee records and forms (including payroll records, PTO availability, and time off requests), and information, including TriNet's employee handbook. Both TriNet employees and the employees of TriNet clients are provided access to the online portal.

5. In my position, I am familiar with the online tools that TriNet makes available to its clients' worksite employees. Specifically, I am currently involved in the maintenance of the online portal and the online processes by which individuals are provided with TriNet's Terms and Conditions Agreement ("TCA") and Dispute Resolution Protocol ("DRP"), allowed to review and acknowledge the TCA and DRP, and agree to abide by both. Finally, in my position I have access to TriNet's online portal and the information contained in it.

6. Solais is a customer of TriNet. In TriNet's documents, including the TCA and DRP, Solais is referred to as a TriNet "client," "customer," or as the "worksite employer." Because it is the on-site employer, Solais retains the responsibilities of hiring and directing the day-to-day work of its worksite employees, such as Plaintiff Ashlee Myers ("Ms. Myers").

7. Employees of TriNet's customers, such as Ms. Myers, access the online portal as part of TriNet's onboarding process (for new employees), or once TriNet and a client establish a relationship and TriNet assumes responsibility for providing document access (for existing employees). Worksite employees are also prompted to access TriNet's online portal during their employment, for example, to accept a revised TCA as TriNet implements them. Worksite employees who are provided access to the TriNet online portal and who receive payroll processed by TriNet retain their status as worksite employees of the client company while TriNet acts as the PEO. All applicants and employees of TriNet's customers, including Solais, are informed at the commencement of their employment of the existence of the PEO relationship and TriNet's status as the PEO.

8. TriNet's online portal is password-protected. When worksite employees first access the online portal, they encounter a log on screen. At this screen, they must enter both a Username and a Password. Otherwise they cannot proceed. Worksite employees are notified by

a “Welcome” e-mail of their default password for logging in. Based on TriNet’s standard operating procedures, I am informed and believe that from 2014 and onward, as part of TriNet’s onboarding process, the worksite employees used the default password upon first login to accept the TCA. Once worksite employees logged in and accepted the TCA, worksite employees then generated their own unique passwords. Thereafter, they can use the same Password that they created, along with their Username, to subsequently log on to their online portal account.

9. Once a worksite employee creates his or her own unique password, nothing in TriNet’s system shares that password with anyone. The password cannot be manually retrieved from the system by anyone. TriNet designed and developed the system and internal security protocols to ensure the security of each user’s individual unique password. If a worksite employee forgets his or her password, TriNet has no way to retrieve it. In most cases, the only thing TriNet can do is manually “re-set” that user’s online portal account to allow him/her to create a new password, as if he/she were a new user. Worksite employers, such as Solais, do not have access to change the login password for any of their worksite employees. Furthermore, TriNet’s security protocols do not permit anyone other than a user with the correct password to enter a worksite employee’s individual online portal account. TriNet has the ability to “view” select screens of a worksite employee’s online portal account, but we have no ability to directly access that account, or to perform any functions within that online portal account as that user.

10. I have reviewed TriNet’s data regarding the online portal system, including the data related to the individual online portal account created for Ms. Myers, which is maintained by TriNet in the ordinary course of business. Based on my review of the data, the then effective TCA and DRP’s were presented to Ms. Myers via her individual online portal account on January 3, 2020. A true and correct copy of the TCA agreed to by Ms. Myers is attached hereto and incorporated herein as **Exhibit A**.

11. Once an individual is presented with the DRP through their online portal account, there is no limit on the amount of time an individual may take to review and either reject or accept the TCA, which contains the DRP. As such, because the DRP was presented to Ms. Myers through

her online portal account, there was no specific time limit for her to review and accept the DRP. If Ms. Myers did not have enough time to read the TCA and DRP when she first logged into her online portal account, she could simply log in at another time and review it at a later date.

12. To agree to and accept the terms of the DRP, Ms. Myers was required to enter a valid e-mail address at the bottom of the screen and then click on a button marked “I Accept.” Notably, this e-mail address can only be verified by Ms. Myers by accessing her online portal account using her username and password. Solais and TriNet do not have the ability to change or alter the e-mail address. The TriNet portal uses the e-mail address selected and entered by the employee to provide confirmation of acceptance or rejection of the TCA and DRP. Finally, next to the “I Accept” button was a button marked “Reject.”

13. When an individual clicks the “I Accept” button after being presented with the TCA/DRP for review, the column entitled “Accepted” in that individual’s online portal account is marked with a “Y.” If the individual has not clicked the accept button or clicks the “Reject” button, the column entitled “Accepted” in their online portal account screenshot is marked with an “N.” As stated, Solais does not have access to change the login password for any of their worksite employees.

14. I have reviewed Ms. Myers’ online portal account regarding her review and acceptance of the TCA/DRP. Attached as **Exhibit B** is a true and correct copy of a screenshot of Ms. Myers’ online portal account, which shows that she accepted the TCA and DRP on January 3, 2020. The “Y” in the “Accepted” column (shown on **Exhibit B**) in her online portal account demonstrates that on January 3, 2020, Ms. Myers accepted the then effective TCA, including the DRP, by electronic acceptance through her online portal account using her unique Username and Password. A confirmation was sent to Ms. Myers on January 3, 2020, at the e-mail addresses she submitted on her online portal account, which is ashlee.myers@solais.com.

15. I have personally reviewed and verified the data maintained by TriNet in the ordinary course of business, which shows that Ms. Myers electronically acknowledged and accepted the DRP on January 3, 2020. *See*, **Exhibit B**. The screenshot is an accurate display of

the information from the online portal system showing Ms. Myers' employee identification number, which is (00002557517); her name; the e-mail address selected and submitted by Ms. Myers, which is ashlee.myers@solais.com; Solais's company identification number with TriNet, which is 12V8; the date (01/03/20) when Myers clicked the "I Accept" button to accept the then effective TCA and DRP (labeled "EFFDT," which means effective date); and "Y" in the "accepted" column.

16. When a worksite employee accepts the TCA/DRP through his or her secure online portal account, TriNet's system is designed to automatically generate an e-mail to that worksite employee ("Acceptance E-Mail"). The Acceptance E-Mail "confirms . . . accept[ance] of the TriNet Terms & Conditions Agreement" (which includes the DRP), and also attaches an electronic PDF copy of the TCA, including the DRP. A true and correct copy of the Acceptance E-Mail sent to Ms. Myers at the e-mail address she submitted on January 3, 2020, is attached hereto and incorporated herein as **Exhibit C**.

17. Based on my personal knowledge of the design and operation of TriNet's online portal system, the contents of **Exhibits B** and **C** show that Ms. Myers entered a valid e-mail address at the bottom of the screen containing the TCA and DRP in the online portal account and then clicked the "I Accept" button on January 3, 2020, agreeing to abide by the terms and conditions of the TCA and the DRP. By doing so, Ms. Myers agreed to submit her claims to arbitration in lieu of pursuing them in court.

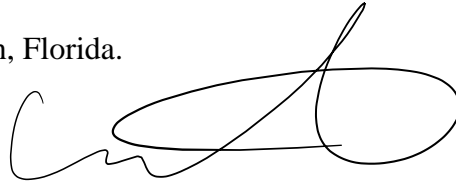
18. I obtained copies of all these documents from electronic records maintained by TriNet in the ordinary course of business in Austin, Texas, and Bradenton, Florida. These electronic records are generated at the same time the action corresponding to the records takes place. For example, the electronic record of the unique user log that is **Exhibit B** was generated at the time Ms. Myers accepted the TCA/DRP on January 3, 2020. The Acceptance E-mail that was sent to Ms. Myers upon her acceptance of the TCA/DRP was also generated at the time Plaintiff accepted the TCA/DRP on January 3, 2020.

19. TriNet has business offices in multiple states throughout the United States,

including California, Florida, New York, and Texas. TriNet's clients are located throughout the United States, and worksite employees, such as Ms. Myers, access the TriNet system from various states using interstate communication networks including the internet and electronic correspondence.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 7th, 2021, at Bradenton, Florida.

A handwritten signature in black ink, appearing to read 'CHAD THOMPSON', written over a horizontal line.

CHAD THOMPSON

## **TRINET TERMS AND CONDITIONS AGREEMENT (TCA)**

PLEASE READ THIS TCA CAREFULLY. IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR EMPLOYMENT RELATIONSHIP WITH TRINET, YOUR USE OF THE TRINET PLATFORM AND ONLINE SERVICES, AND THE HANDLING OF ANY DISPUTES ARISING OUT OF YOUR RELATIONSHIP WITH TRINET, YOUR COMPANY, AND RELATED MATTERS.

**This TCA contains the following sections:**

**[1. Co-Employment vs. Standard Employment](#)**

**[2. The TriNet Platform– Use, Information Accuracy, And Electronic Delivery](#)**

**[3. TriNet Payroll Services](#)**

**[4. TriNet Benefits](#)**

**[5. TriNet Employee Handbook, Additional Policies, And State Notices](#)**

**[6. At-Will Relationship](#)**

**[7. Confirmation Of Roles](#)**

**[8. Dispute Resolution Protocol \("DRP"\) and Mandatory Arbitration of Claims](#)**

**[a. How The DRP Applies](#)**

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**[d. How Arbitration Proceedings Are Conducted](#)**

**[e. The Arbitration Hearing And Award](#)**

**[f. Enforcement Of The DRP](#)**

**[9. Acknowledgement](#)**

**[1. Co-Employment vs. Standard Employment](#)**

The TriNet family of companies is engaged in the business of providing human resources services through various licensed Professional Employer Organizations ("PEOs"). In this Terms and Conditions Agreement ("TCA"), "TriNet" includes TriNet Group, Inc., and all its direct and indirect subsidiaries (including, but not limited to your TriNet co-employer, as defined below), whether doing business in their own name or otherwise.

Your relationship with TriNet is beginning because the company you work for (“your worksite employer,” “your company” or “my company”) is a TriNet customer. This means that your company has entered into an agreement with a TriNet PEO company to share certain employer responsibilities as co-employers. This also means that a TriNet PEO company (the company whose name appears on your wage statements, “your TriNet co-employer”) will be your employer of record for certain administrative purposes, which may include processing payroll (based on information provided by your worksite employer), sponsoring and administering employee benefits as applicable, and providing certain other human resources services. Your worksite employer will retain the responsibilities of directing your day-to-day work and managing its business affairs. Your worksite employer, not TriNet, has sole responsibility for controlling and providing information about your wages, working hours, and working conditions. You acknowledge and agree that your worksite employer and TriNet are authorized to share information with each other about you and your dependents to provide human resources services.

## 2. TriNet Platform- Use, Information Accuracy, And Electronic Delivery

You acknowledge and agree that all information submitted by you or your company to TriNet and your licensed use of the TriNet platform (login.trinet.com) is subject to the terms and conditions in this TCA as well as the [TriNet Platform Terms of Use](#) and [TriNet Platform Privacy Policy](#). You will be prompted to review and acknowledge these important policies once you acknowledge this TCA. Thereafter, they will be available for reference on the TriNet platform.

You agree that all information submitted by you to TriNet for employment, payroll, and benefits administration purposes is and will be true and correct to the best of your knowledge, and you understand that any misrepresentation or omission may affect your relationship with TriNet, your employment status with your worksite employer, and certain insurance or benefits provided to you. You authorize TriNet to enroll you in TriNet sponsored employee benefits (if you are an eligible employee under the terms of the plans), and to make changes to your benefits, payroll, and personal information according to the information you submit to TriNet directly or indirectly. Moreover, you agree to provide TriNet an active and functioning email address for you, to review and accept notices and other documents sent to that email address, and to review and accept notices and other documents posted on the TriNet platform.

You hereby agree and consent to electronic delivery by email (or via such other method as permitted by law), of your IRS Form W-2, COBRA notices, and any other notice or form for which consent to electronic delivery is required by law, for the duration of your employment. Further, you agree to make all such documents available to your spouse, domestic partner, and/or dependents, as applicable. Such documents will also be posted and made available on the TriNet platform. Requests for paper copies of such documents may be made to the TriNet Solution Center at 1.800.638.0461 or employees@trinet.com. Requests for paper copies are not considered a withdrawal of your consent to receive such documents electronically. (Additional contact information can be found on the TriNet platform.)

If you subsequently withdraw your consent to electronic delivery, you will receive your Form W-2, COBRA notices, and other such mandatory documents in hard copy form at no charge. You may withdraw consent for electronic delivery of Form W-2 (and other electronic notices) by navigating to the Settings menu on the TriNet platform. Your withdrawal will be confirmed to you by email. If you need assistance making this change, please contact the TriNet Solution Center. A withdrawal of this consent does not apply to previously issued Form W-2s.

## 3. TriNet Payroll Services

You understand and agree that:



**(a)** Responsibility for compliance with accurate reporting of hours worked, legally required break periods, overtime, certain time off accrued and taken, and related matters are the responsibility of your company, over which TriNet has no control;

**(b)** TriNet is responsible for processing your pay based on your company's reporting (see above), as directed by your company, and pursuant to the written agreement between your company and TriNet;

**(c)** TriNet does not determine or provide input about your rate of pay, the hours you are scheduled to work or actually work, any legally required break periods, or your exempt/non-exempt status under the law;

**(d)** TriNet's responsibility for your pay is further limited in the following ways:

(i) If TriNet learns that it paid you an amount not authorized by your company, you agree to repay the amount to TriNet and you consent to TriNet reversing such payment, to the full extent permitted by law;

(ii) If your company fails to fund its payroll, TriNet will pay you if required by law and, in that situation, only the minimum amounts required by law based on the information available to it regarding your hours worked. In the event your company fails to fund payroll, any requests for payment of wages should be made to your company; and

(iii) If you believe that your company owes you more than what TriNet remits to you (including payment for time that you have worked, commissions and bonuses, time that you have taken or accrued as sick/vacation/paid time off, time for any other paid leave of absence, and/or amounts in excess of minimum wage), your sole recourse for collection of such unpaid amounts is against your company and not TriNet, and will be the sole liability of your worksite employer.

**(e)** Your worksite employer is solely responsible for reimbursement of any business expenses you may incur.

#### **4. TriNet Benefits**

You may be offered certain TriNet-sponsored employee benefits, subject to your company's benefit selections and the terms of the applicable TriNet benefits plan documents. You acknowledge and agree that if you elect to participate in the TriNet cafeteria plan and health and welfare benefits, you must abide by the rules set forth under the applicable plan documents. Unless otherwise required by law, you acknowledge and agree that if you are eligible to elect TriNet benefits but fail to submit a benefits election by the specified deadline, you must wait until the next open enrollment period to elect new coverage or make changes to your elections, unless you experience a life status change event. Please refer to your applicable TriNet Benefits Guidebook and Summary Plan Description for important details regarding the consequences of failing to make a timely election or waiver of coverage.

You understand that you have access to an electronic copy of your applicable TriNet Benefits Guidebook and Summary Plan Description posted on the TriNet platform, as well as in PDF format that TriNet can email to you upon request, and as a hardcopy that TriNet can mail to you upon request. You agree to read the TriNet Benefits Guidebook carefully as it contains important information regarding the TriNet cafeteria plan and health and welfare benefits.

You understand that, if your company arranges to sponsor a different health plan, you will not be eligible to participate in a health plan sponsored by TriNet. In such case, you also understand and agree that your company may request that TriNet take deductions from your pay for the healthcare premiums associated with your participation in the health plan sponsored by your company. You hereby consent to such deductions, and

you understand and agree that they will appear on your pay stub as a deduction amount and will be reported accordingly on your Form W-2.

You also understand and agree that certain information about your TriNet benefits enrollment, including but not limited to plan elections and the amounts of your salary deductions (including, if applicable, salary deferrals for a retirement plan, contributions to a health care flexible spending account, dependent day care flexible spending account, and similar arrangements), may be shared with your worksite employer for the purpose of verifying billing accuracy and/or for any other lawful purpose, and/or if and when your worksite employer ceases to do business with TriNet.

#### 5. TriNet Employee Handbook, Additional Policies, And State Notices

Once you acknowledge this TCA, you will be prompted to review and acknowledge receipt of the TriNet Employee Handbook and other additional policies applicable to your employment as part of your onboarding. Copies can be found on the TriNet platform or by contacting the TriNet Solution Center at 1.800.638.0461 or [employees@trinet.com](mailto:employees@trinet.com).

You also understand and agree that depending upon your work location, you are entitled to receive certain mandatory **State Notices**. It is your responsibility to read and familiarize yourself with the TriNet Employee Handbook, applicable State Notices and other additional policies, and to ask TriNet for clarification of any of the above item(s) that you may not understand. You may view any applicable State Notices on the TriNet Platform under **Company > Legal Notices > Notices** and selecting the "Required State Notices" document.

#### 6. At-Will Relationship

Unless prohibited by law or expressly provided in a written agreement signed by the Chief Executive Officer and President of TriNet, your relationship with your TriNet co-employer is "at-will," meaning that you and your TriNet co-employer have the right to terminate the relationship at any time, with or without cause, and with or without advance notice.

#### 7. Confirmation of Roles

You understand that the work you perform for your worksite employer is for the direct benefit of your company and not TriNet. You understand that your company, and not TriNet, directs and controls your hiring, compensation, employment duties and responsibilities, work schedule and actual hours worked, performance measurement, and all other terms and conditions of your employment at the worksite.

If you are an officer or partner of your company, you understand that the agreement between your company and TriNet does not relieve you of any legal responsibility you may have to employees of the company, taxing authorities, or TriNet, should your company fail to meet its payroll obligations. d

#### 8. Dispute Resolution Protocol ("DRP") and Mandatory Arbitration of Claims

**Subject to and without superseding the specific terms in subsections (a) through (f) below, the DRP expressly requires that arbitration will be used instead of going before a court (for a judge or jury trial) and that NO JURY TRIAL WILL BE PERMITTED (unless applicable law does not allow enforcement of a pre-dispute jury trial waiver in the particular circumstances presented) for any dispute arising out of or relating to your co-employment with TriNet and/or arising out of or relating to your employment with your company, and for any dispute with an employee, officer, or director of TriNet or of a TriNet customer.**

**(a) How The DRP Applies**

Subject to the limitations in subsection (b), this DRP covers any dispute arising out of or relating to your co-employment with TriNet, including your TriNet co-employer, and/or arising out of or relating to your employment with your company, as well as any dispute with an employee, officer, or director of TriNet or of a TriNet customer (all of whom, in addition to TriNet customers, are intended to be beneficiaries of this DRP) ("covered dispute"), including, but not limited to, all claims whether arising in tort or contract and whether arising under statute or common law including, but not limited to, any claim of breach of contract, discrimination or harassment of any kind. The Federal Arbitration Act ("FAA") applies to this DRP. Any applicable internal procedures at your company or TriNet for resolving disputes (e.g., procedures in the TriNet Employee Handbook for complaining about or addressing complaints about misconduct), as well as the option of mediation, will continue to apply with the goal of resolving disputes before arbitration. This DRP will survive the termination of the employment relationship. **With only the exceptions described below, arbitration will be used instead of going before a court (for a judge or jury trial) and even in the situations described below, NO JURY TRIAL WILL BE PERMITTED (unless applicable law does not allow enforcement of a pre-dispute jury trial waiver in the particular circumstances presented).**

**(b) Limitations On How The DRP Applies**

The mandatory arbitration requirement of this DRP does not apply to claims for workers' compensation, state disability insurance, or unemployment insurance benefits. It also does not apply to any claims that are legally prohibited from being subject to a pre-dispute mandatory arbitration agreement (e.g., certain claims against federal contractors). It also does not apply to claims properly made pursuant to a collective bargaining agreement's dispute resolution procedure if you are represented by a union and the dispute resolution procedure in the applicable collective bargaining agreement conflicts with the mandatory arbitration provision of this DRP. The mandatory arbitration requirement also does not prevent a party from bringing complaints, claims, or charges before the Equal Employment Opportunity Commission, the U.S. Department of Labor, the National Labor Relations Board, or the Office of Federal Contract Compliance Program, and does not prevent a party from bringing claims in any forum as provided in Public Laws 111-203, 111-118 and 112-10. Further, claims may be brought before any other administrative agency, provided applicable law permits such claims to be presented to that agency even when a mandatory arbitration agreement such as this DRP exists.

**If at the time of a covered dispute there is an arbitration agreement between you and your company, then to the extent inconsistent with this DRP's mandatory arbitration requirement, this DRP will control. If at the time of a covered dispute there is an agreement between you and your company expressly prohibiting arbitration of covered disputes, then that agreement will be controlling as between you and your company (and its employees, officers, and agents). However, any covered dispute against TriNet (and its employees, officers, and agents) will still be subject to this DRP and mandatory arbitration, unless you and TriNet mutually agree otherwise after the covered dispute has arisen.**

This DRP does not excuse a requirement that a party must exhaust administrative remedies before filing certain claims, with the understanding that after administrative remedies have been exhausted, you must commence arbitration to resolve a covered dispute.

**(c) Starting Arbitration**

Before commencement of arbitration, the parties may, upon express written agreement of the parties, submit the dispute to mediation on terms and conditions agreeable to all parties. This DRP does not require mediation before commencing arbitration.

Arbitration begins by bringing a claim under the applicable employment arbitration rules and procedures of the Judicial Arbitration and Mediation Services, Inc. ("JAMS") or any other dispute resolution provider agreed to by the parties, as then in effect and as modified by any superseding provisions in this DRP. JAMS' Employment Arbitration Rules may be found on the internet at [www.jamsadr.com](http://www.jamsadr.com) or by using an internet search engine to locate the "JAMS Employment Arbitration Rules." All claims in arbitration must be raised within the same time limits (statutes of limitation) that would apply to a court proceeding. The arbitrator will be selected by mutual agreement of the parties and will be an experienced attorney licensed in the state where the arbitration will be held or a retired judicial officer who served in that state as a judge or another qualified individual. If the parties cannot agree on an arbitrator, the applicable JAMS (or, if agreed to by the parties, another dispute resolution provider's), rules will apply to appoint an arbitrator. The arbitration will be conducted no more than 75 miles from the location where you last regularly worked for your worksite employer, unless the parties agree to another location.

**(d) How Arbitration Proceedings Are Conducted**

In arbitration, the parties will have the right to file motions challenging the pleadings (e.g., demurrer or motion to dismiss), conduct reasonable and adequate civil discovery, bring dispositive motions (e.g., summary judgment/adjudication), and present witnesses and evidence in support of their cases and defenses. The specific provisions of this DRP and the applicable rules of JAMS (or any other dispute resolution provider agreed to by the parties), will direct the arbitrator in decisions regarding conducting the arbitration. To the extent any applicable arbitration rules are inconsistent with the terms of this DRP, the terms of this DRP will be controlling.

**There will be no right or authority for any dispute to be brought, heard, or arbitrated as a class, collective, representative, or private attorney general action, or as a member in any purported class, collective, representative, or private attorney general proceeding, including, without limitation, uncertified class actions ("Class Action Waiver"); provided, however, that you may opt out of the Class Action Waiver by checking this box ☐ before you acknowledge this TCA below.** Disputes regarding the validity and enforceability of the Class Action Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. In any case in which (1) the dispute is filed as a class, collective, representative, or private attorney general action, and (2) a civil court of competent jurisdiction finds all or part of the Class Action Waiver unenforceable, the class, collective, representative, and/or private attorney general action must be litigated in a civil court of competent jurisdiction, but the portion of the Class Action Waiver that is enforceable shall be enforced in arbitration. No employee will be retaliated against, disciplined, or threatened with discipline for exercising his or her rights under Section 7 of the National Labor Relations Act by the filing of or participation in a class, collective, or representative action, but TriNet (and, if applicable, any TriNet customer or employee(s) of either TriNet or a TriNet customer interested in enforcing this DRP for its/their own benefit), retains the right to enforce this DRP and the Class Action Waiver under the Federal Arbitration Act and to seek dismissal of class, collective, or representative actions.

During the arbitration each party will pay their own attorneys' fees, subject to any remedies to which that party may later be entitled under applicable law. In all cases where the law requires it, TriNet (and, if applicable, any TriNet customer or employee(s) of either TriNet or a TriNet customer interested in enforcing this DRP for its/their own benefit), will pay the fees of the arbitrator and the arbitration. In cases in which apportionment of fees for the arbitrator and the arbitration is permitted by applicable law, those fees will be divided between the parties as is required by law and determined by the arbitrator.

**(e) The Arbitration Hearing And Award**

Within 30 days after the end of the arbitration hearing, any party may file a written brief by providing copies to the arbitrator and the other parties. The arbitrator may award any remedy warranted under applicable law

and will provide a written opinion including reasoned explanations for the decision. The decision of the arbitrator is final and not subject to appeal, except that, to the extent allowed or required by applicable law, the award may be confirmed, corrected, modified, or vacated by a court of competent jurisdiction based on the limited grounds set forth in the FAA, and a court of competent jurisdiction will have the authority to enter judgment based on a final arbitration award.

**(f) Enforcement Of The DRP**

Subject to the exceptions provided herein, this DRP is the full and complete agreement for resolution of covered disputes between you and TriNet (and its employees, officers, and agents), and between you and your company (and its employees, officers, and agents). If any portion of this DRP is determined to be unenforceable, the remainder of this DRP will still be enforceable, subject to the specific exception in section (d), above.

**9. Acknowledgement**

By acknowledging below, I confirm that I have read and understand the contents of this TCA including, but not limited to, **the Dispute Resolution Protocol ("DRP"), which includes my agreement to mandatory arbitration of disputes arising out of or relating to my employment and a waiver of my right to a jury trial (except as specifically provided in the DRP)**. I understand and acknowledge that I have the responsibility to read and familiarize myself with the TCA, the TriNet Employee Handbook, any applicable State Notices, and any additional policies for my company, and I agree to abide by the terms and conditions set forth therein, including but not limited to the DRP. I further understand and acknowledge that I am an at-will employee.

I understand and acknowledge that none of the language in this TCA, the TriNet Employee Handbook or elsewhere is intended to limit the exercise of my rights under Section 7 of the National Labor Relations Act.

| EMPLID      | NAME         | EMAIL_ADDR              | COMPANY | TO_CHAR(A.EFFDT,'DD-... | ACCEPTED | CLS_ACT_WAIVR |
|-------------|--------------|-------------------------|---------|-------------------------|----------|---------------|
| 00002557517 | MYERS,ASHLEE | ashlee.myers@solais.com | 12V8    | 03-JAN-20 00:00:00      | Y        | N             |

**EXHIBIT B**

**From:** DoNotReply@email.trinet.com  
**Sent:** Friday, January 3, 2020 11:25 AM  
**To:** TCA\_Acceptance@trinet.com  
**Subject:** TriNet Terms and Conditions Agreement (TCA); Health Care Notification  
**Attachments:** TriNet\_TCA.pdf; Initial\_COBRA\_Notice.pdf



Hello,

We are sending this email to provide notification regarding two important matters: (1) your acceptance of the TriNet Terms & Conditions Agreement (TCA), and (2) your COBRA rights and responsibilities. More information about each matter is provided below.

TCA: This confirms that you have accepted the TCA, which you clicked through on the TriNet platform on 01/03/2020. Attached is a copy of the TCA you accepted.

COBRA: Regulations require that we provide to you when you become eligible for TriNet health care benefits an "initial" COBRA notice. Attached is the required initial COBRA notice, which contains information, for not only you but also any dependents, about general COBRA rights and obligations. Please share it with any dependents enrolled in the plan. (If you or any dependents lose coverage and are eligible for COBRA, TriNet will send a separate notice providing COBRA election details and deadlines.)

We recommend that you review and retain the TCA for your records and future reference.

If you have any questions, please contact the TriNet Solution Center 24/7\*\* Live Chat ([login.trinet.com](https://login.trinet.com) > **Contact TriNet > Live Chat**), by phone (800.638.0461) Monday - Friday 6 a.m. - midnight ET (3 a.m. - 9 p.m. PT), or email ([employees@trinet.com](mailto:employees@trinet.com)).

Sincerely,  
TriNet

This email was sent to ASHLEE MYERS, Emp ID 00002557517 at ashlee.myers@solais.com working at Solais Lighting, Inc (12V8).

[Log in to TriNet](https://login.trinet.com) to see additional information. Thank you.

## **TRINET TERMS AND CONDITIONS AGREEMENT (TCA)**

PLEASE READ THIS TCA CAREFULLY. IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR EMPLOYMENT RELATIONSHIP WITH TRINET, YOUR USE OF THE TRINET PLATFORM AND ONLINE SERVICES, AND THE HANDLING OF ANY DISPUTES ARISING OUT OF YOUR RELATIONSHIP WITH TRINET, YOUR COMPANY, AND RELATED MATTERS.

**This TCA contains the following sections:**

- [1. Co-Employment vs. Standard Employment](#)
- [2. The TriNet Platform– Use, Information Accuracy, And Electronic Delivery](#)
- [3. TriNet Payroll Services](#)
- [4. TriNet Benefits](#)
- [5. TriNet Employee Handbook, Additional Policies, And State Notices](#)
- [6. At-Will Relationship](#)
- [7. Confirmation Of Roles](#)
- [8. Dispute Resolution Protocol \("DRP"\) and Mandatory Arbitration of Claims](#)
  - [a. How The DRP Applies](#)
  - [b. Limitations On How The DRP Applies](#)
  - [c. Starting Arbitration](#)
  - [d. How Arbitration Proceedings Are Conducted](#)
  - [e. The Arbitration Hearing And Award](#)
  - [f. Enforcement Of The DRP](#)

## [9. Acknowledgement](#)

### [1. Co-Employment vs. Standard Employment](#)

The TriNet family of companies is engaged in the business of providing human resources services through various licensed Professional Employer Organizations ("PEOs"). In this Terms and Conditions Agreement ("TCA"), "TriNet" includes TriNet Group, Inc., and all its direct and indirect subsidiaries (including, but not limited to your TriNet co-employer, as defined below), whether doing business in their own name or otherwise.



Your relationship with TriNet is beginning because the company you work for (“your worksite employer,” “your company” or “my company”) is a TriNet customer. This means that your company has entered into an agreement with a TriNet PEO company to share certain employer responsibilities as co-employers. This also means that a TriNet PEO company (the company whose name appears on your wage statements, “your TriNet co-employer”) will be your employer of record for certain administrative purposes, which may include processing payroll (based on information provided by your worksite employer), sponsoring and administering employee benefits as applicable, and providing certain other human resources services. Your worksite employer will retain the responsibilities of directing your day-to-day work and managing its business affairs. Your worksite employer, not TriNet, has sole responsibility for controlling and providing information about your wages, working hours, and working conditions. You acknowledge and agree that your worksite employer and TriNet are authorized to share information with each other about you and your dependents to provide human resources services.

## 2. TriNet Platform- Use, Information Accuracy, And Electronic Delivery

You acknowledge and agree that all information submitted by you or your company to TriNet and your licensed use of the TriNet platform (login.trinet.com) is subject to the terms and conditions in this TCA as well as the [TriNet Platform Terms of Use](#) and [TriNet Platform Privacy Policy](#). You will be prompted to review and acknowledge these important policies once you acknowledge this TCA. Thereafter, they will be available for reference on the TriNet platform.

You agree that all information submitted by you to TriNet for employment, payroll, and benefits administration purposes is and will be true and correct to the best of your knowledge, and you understand that any misrepresentation or omission may affect your relationship with TriNet, your employment status with your worksite employer, and certain insurance or benefits provided to you. You authorize TriNet to enroll you in TriNet sponsored employee benefits (if you are an eligible employee under the terms of the plans), and to make changes to your benefits, payroll, and personal information according to the information you submit to TriNet directly or indirectly. Moreover, you agree to provide TriNet an active and functioning email address for you, to review and accept notices and other documents sent to that email address, and to review and accept notices and other documents posted on the TriNet platform.

You hereby agree and consent to electronic delivery by email (or via such other method as permitted by law), of your IRS Form W-2, COBRA notices, and any other notice or form for which consent to electronic delivery is required by law, for the duration of your employment. Further, you agree to make all such documents available to your spouse, domestic partner, and/or dependents, as applicable. Such documents will also be posted and made available on the TriNet platform. Requests for paper copies of such documents may be made to the TriNet Solution Center at 1.800.638.0461 or employees@trinet.com. Requests for paper copies are not considered a withdrawal of your consent to receive such documents electronically. (Additional contact information can be found on the TriNet platform.)

If you subsequently withdraw your consent to electronic delivery, you will receive your Form W-2, COBRA notices, and other such mandatory documents in hard copy form at no charge. You may withdraw consent for electronic delivery of Form W-2 (and other electronic notices) by navigating to the Settings menu on the TriNet platform. Your withdrawal will be confirmed to you by email. If you need assistance making this change, please contact the TriNet Solution Center. A withdrawal of this consent does not apply to previously issued Form W-2s.

## 3. TriNet Payroll Services

You understand and agree that:

**(a)** Responsibility for compliance with accurate reporting of hours worked, legally required break periods, overtime, certain time off accrued and taken, and related matters are the responsibility of your company, over which TriNet has no control;

**(b)** TriNet is responsible for processing your pay based on your company's reporting (see above), as directed by your company, and pursuant to the written agreement between your company and TriNet;

**(c)** TriNet does not determine or provide input about your rate of pay, the hours you are scheduled to work or actually work, any legally required break periods, or your exempt/non-exempt status under the law;

**(d)** TriNet's responsibility for your pay is further limited in the following ways:

(i) If TriNet learns that it paid you an amount not authorized by your company, you agree to repay the amount to TriNet and you consent to TriNet reversing such payment, to the full extent permitted by law;

(ii) If your company fails to fund its payroll, TriNet will pay you if required by law and, in that situation, only the minimum amounts required by law based on the information available to it regarding your hours worked. In the event your company fails to fund payroll, any requests for payment of wages should be made to your company; and

(iii) If you believe that your company owes you more than what TriNet remits to you (including payment for time that you have worked, commissions and bonuses, time that you have taken or accrued as sick/vacation/paid time off, time for any other paid leave of absence, and/or amounts in excess of minimum wage), your sole recourse for collection of such unpaid amounts is against your company and not TriNet, and will be the sole liability of your worksite employer.

**(e)** Your worksite employer is solely responsible for reimbursement of any business expenses you may incur.

#### 4. TriNet Benefits

You may be offered certain TriNet-sponsored employee benefits, subject to your company's benefit selections and the terms of the applicable TriNet benefits plan documents. You acknowledge and agree that if you elect to participate in the TriNet cafeteria plan and health and welfare benefits, you must abide by the rules set forth under the applicable plan documents. Unless otherwise required by law, you acknowledge and agree that if you are eligible to elect TriNet benefits but fail to submit a benefits election by the specified deadline, you must wait until the next open enrollment period to elect new coverage or make changes to your elections, unless you experience a life status change event. Please refer to your applicable TriNet Benefits Guidebook and Summary Plan Description for important details regarding the consequences of failing to make a timely election or waiver of coverage.

You understand that you have access to an electronic copy of your applicable TriNet Benefits Guidebook and Summary Plan Description posted on the TriNet platform, as well as in PDF format that TriNet can email to you upon request, and as a hardcopy that TriNet can mail to you upon request. You agree to read the TriNet Benefits Guidebook carefully as it contains important information regarding the TriNet cafeteria plan and health and welfare benefits.

You understand that, if your company arranges to sponsor a different health plan, you will not be eligible to participate in a health plan sponsored by TriNet. In such case, you also understand and agree that your company may request that TriNet take deductions from your pay for the healthcare premiums associated with your participation in the health plan sponsored by your company. You hereby consent to such deductions, and

you understand and agree that they will appear on your pay stub as a deduction amount and will be reported accordingly on your Form W-2.

You also understand and agree that certain information about your TriNet benefits enrollment, including but not limited to plan elections and the amounts of your salary deductions (including, if applicable, salary deferrals for a retirement plan, contributions to a health care flexible spending account, dependent day care flexible spending account, and similar arrangements), may be shared with your worksite employer for the purpose of verifying billing accuracy and/or for any other lawful purpose, and/or if and when your worksite employer ceases to do business with TriNet.

#### 5. TriNet Employee Handbook, Additional Policies, And State Notices

Once you acknowledge this TCA, you will be prompted to review and acknowledge receipt of the TriNet Employee Handbook and other additional policies applicable to your employment as part of your onboarding. Copies can be found on the TriNet platform or by contacting the TriNet Solution Center at 1.800.638.0461 or [employees@trinet.com](mailto:employees@trinet.com).

You also understand and agree that depending upon your work location, you are entitled to receive certain mandatory **State Notices**. It is your responsibility to read and familiarize yourself with the TriNet Employee Handbook, applicable State Notices and other additional policies, and to ask TriNet for clarification of any of the above item(s) that you may not understand. You may view any applicable State Notices on the TriNet Platform under **Company > Legal Notices > Notices** and selecting the "Required State Notices" document.

#### 6. At-Will Relationship

Unless prohibited by law or expressly provided in a written agreement signed by the Chief Executive Officer and President of TriNet, your relationship with your TriNet co-employer is "at-will," meaning that you and your TriNet co-employer have the right to terminate the relationship at any time, with or without cause, and with or without advance notice.

#### 7. Confirmation of Roles

You understand that the work you perform for your worksite employer is for the direct benefit of your company and not TriNet. You understand that your company, and not TriNet, directs and controls your hiring, compensation, employment duties and responsibilities, work schedule and actual hours worked, performance measurement, and all other terms and conditions of your employment at the worksite.

If you are an officer or partner of your company, you understand that the agreement between your company and TriNet does not relieve you of any legal responsibility you may have to employees of the company, taxing authorities, or TriNet, should your company fail to meet its payroll obligations. d

#### 8. Dispute Resolution Protocol ("DRP") and Mandatory Arbitration of Claims

**Subject to and without superseding the specific terms in subsections (a) through (f) below, the DRP expressly requires that arbitration will be used instead of going before a court (for a judge or jury trial) and that NO JURY TRIAL WILL BE PERMITTED (unless applicable law does not allow enforcement of a pre-dispute jury trial waiver in the particular circumstances presented) for any dispute arising out of or relating to your co-employment with TriNet and/or arising out of or relating to your employment with your company, and for any dispute with an employee, officer, or director of TriNet or of a TriNet customer.**

**(a) How The DRP Applies**

Subject to the limitations in subsection (b), this DRP covers any dispute arising out of or relating to your co-employment with TriNet, including your TriNet co-employer, and/or arising out of or relating to your employment with your company, as well as any dispute with an employee, officer, or director of TriNet or of a TriNet customer (all of whom, in addition to TriNet customers, are intended to be beneficiaries of this DRP) ("covered dispute"), including, but not limited to, all claims whether arising in tort or contract and whether arising under statute or common law including, but not limited to, any claim of breach of contract, discrimination or harassment of any kind. The Federal Arbitration Act ("FAA") applies to this DRP. Any applicable internal procedures at your company or TriNet for resolving disputes (e.g., procedures in the TriNet Employee Handbook for complaining about or addressing complaints about misconduct), as well as the option of mediation, will continue to apply with the goal of resolving disputes before arbitration. This DRP will survive the termination of the employment relationship. **With only the exceptions described below, arbitration will be used instead of going before a court (for a judge or jury trial) and even in the situations described below, NO JURY TRIAL WILL BE PERMITTED (unless applicable law does not allow enforcement of a pre-dispute jury trial waiver in the particular circumstances presented).**

**(b) Limitations On How The DRP Applies**

The mandatory arbitration requirement of this DRP does not apply to claims for workers' compensation, state disability insurance, or unemployment insurance benefits. It also does not apply to any claims that are legally prohibited from being subject to a pre-dispute mandatory arbitration agreement (e.g., certain claims against federal contractors). It also does not apply to claims properly made pursuant to a collective bargaining agreement's dispute resolution procedure if you are represented by a union and the dispute resolution procedure in the applicable collective bargaining agreement conflicts with the mandatory arbitration provision of this DRP. The mandatory arbitration requirement also does not prevent a party from bringing complaints, claims, or charges before the Equal Employment Opportunity Commission, the U.S. Department of Labor, the National Labor Relations Board, or the Office of Federal Contract Compliance Program, and does not prevent a party from bringing claims in any forum as provided in Public Laws 111-203, 111-118 and 112-10. Further, claims may be brought before any other administrative agency, provided applicable law permits such claims to be presented to that agency even when a mandatory arbitration agreement such as this DRP exists.

**If at the time of a covered dispute there is an arbitration agreement between you and your company, then to the extent inconsistent with this DRP's mandatory arbitration requirement, this DRP will control. If at the time of a covered dispute there is an agreement between you and your company expressly prohibiting arbitration of covered disputes, then that agreement will be controlling as between you and your company (and its employees, officers, and agents). However, any covered dispute against TriNet (and its employees, officers, and agents) will still be subject to this DRP and mandatory arbitration, unless you and TriNet mutually agree otherwise after the covered dispute has arisen.**

This DRP does not excuse a requirement that a party must exhaust administrative remedies before filing certain claims, with the understanding that after administrative remedies have been exhausted, you must commence arbitration to resolve a covered dispute.

**(c) Starting Arbitration**

Before commencement of arbitration, the parties may, upon express written agreement of the parties, submit the dispute to mediation on terms and conditions agreeable to all parties. This DRP does not require mediation before commencing arbitration.

Arbitration begins by bringing a claim under the applicable employment arbitration rules and procedures of the Judicial Arbitration and Mediation Services, Inc. ("JAMS") or any other dispute resolution provider agreed to by the parties, as then in effect and as modified by any superseding provisions in this DRP. JAMS' Employment Arbitration Rules may be found on the internet at [www.jamsadr.com](http://www.jamsadr.com) or by using an internet search engine to locate the "JAMS Employment Arbitration Rules." All claims in arbitration must be raised within the same time limits (statutes of limitation) that would apply to a court proceeding. The arbitrator will be selected by mutual agreement of the parties and will be an experienced attorney licensed in the state where the arbitration will be held or a retired judicial officer who served in that state as a judge or another qualified individual. If the parties cannot agree on an arbitrator, the applicable JAMS (or, if agreed to by the parties, another dispute resolution provider's), rules will apply to appoint an arbitrator. The arbitration will be conducted no more than 75 miles from the location where you last regularly worked for your worksite employer, unless the parties agree to another location.

**(d) How Arbitration Proceedings Are Conducted**

In arbitration, the parties will have the right to file motions challenging the pleadings (e.g., demurrer or motion to dismiss), conduct reasonable and adequate civil discovery, bring dispositive motions (e.g., summary judgment/adjudication), and present witnesses and evidence in support of their cases and defenses. The specific provisions of this DRP and the applicable rules of JAMS (or any other dispute resolution provider agreed to by the parties), will direct the arbitrator in decisions regarding conducting the arbitration. To the extent any applicable arbitration rules are inconsistent with the terms of this DRP, the terms of this DRP will be controlling.

**There will be no right or authority for any dispute to be brought, heard, or arbitrated as a class, collective, representative, or private attorney general action, or as a member in any purported class, collective, representative, or private attorney general proceeding, including, without limitation, uncertified class actions ("Class Action Waiver"); provided, however, that you may opt out of the Class Action Waiver by checking this box ☐ before you acknowledge this TCA below.** Disputes regarding the validity and enforceability of the Class Action Waiver may be resolved only by a civil court of competent jurisdiction and not by an arbitrator. In any case in which (1) the dispute is filed as a class, collective, representative, or private attorney general action, and (2) a civil court of competent jurisdiction finds all or part of the Class Action Waiver unenforceable, the class, collective, representative, and/or private attorney general action must be litigated in a civil court of competent jurisdiction, but the portion of the Class Action Waiver that is enforceable shall be enforced in arbitration. No employee will be retaliated against, disciplined, or threatened with discipline for exercising his or her rights under Section 7 of the National Labor Relations Act by the filing of or participation in a class, collective, or representative action, but TriNet (and, if applicable, any TriNet customer or employee(s) of either TriNet or a TriNet customer interested in enforcing this DRP for its/their own benefit), retains the right to enforce this DRP and the Class Action Waiver under the Federal Arbitration Act and to seek dismissal of class, collective, or representative actions.

During the arbitration each party will pay their own attorneys' fees, subject to any remedies to which that party may later be entitled under applicable law. In all cases where the law requires it, TriNet (and, if applicable, any TriNet customer or employee(s) of either TriNet or a TriNet customer interested in enforcing this DRP for its/their own benefit), will pay the fees of the arbitrator and the arbitration. In cases in which apportionment of fees for the arbitrator and the arbitration is permitted by applicable law, those fees will be divided between the parties as is required by law and determined by the arbitrator.

**(e) The Arbitration Hearing And Award**

Within 30 days after the end of the arbitration hearing, any party may file a written brief by providing copies to the arbitrator and the other parties. The arbitrator may award any remedy warranted under applicable law

and will provide a written opinion including reasoned explanations for the decision. The decision of the arbitrator is final and not subject to appeal, except that, to the extent allowed or required by applicable law, the award may be confirmed, corrected, modified, or vacated by a court of competent jurisdiction based on the limited grounds set forth in the FAA, and a court of competent jurisdiction will have the authority to enter judgment based on a final arbitration award.

**(f) Enforcement Of The DRP**

Subject to the exceptions provided herein, this DRP is the full and complete agreement for resolution of covered disputes between you and TriNet (and its employees, officers, and agents), and between you and your company (and its employees, officers, and agents). If any portion of this DRP is determined to be unenforceable, the remainder of this DRP will still be enforceable, subject to the specific exception in section (d), above.

**9. Acknowledgement**

By acknowledging below, I confirm that I have read and understand the contents of this TCA including, but not limited to, **the Dispute Resolution Protocol ("DRP"), which includes my agreement to mandatory arbitration of disputes arising out of or relating to my employment and a waiver of my right to a jury trial (except as specifically provided in the DRP)**. I understand and acknowledge that I have the responsibility to read and familiarize myself with the TCA, the TriNet Employee Handbook, any applicable State Notices, and any additional policies for my company, and I agree to abide by the terms and conditions set forth therein, including but not limited to the DRP. I further understand and acknowledge that I am an at-will employee.

I understand and acknowledge that none of the language in this TCA, the TriNet Employee Handbook or elsewhere is intended to limit the exercise of my rights under Section 7 of the National Labor Relations Act.



## **INITIAL NOTICE OF HEALTH CARE CONTINUATION COVERAGE AND COBRA RIGHTS**

### **1. Introduction**

You are receiving this notice because you may have recently become covered under a TriNet benefits plan (the "Plan"). This notice contains important information about your right to COBRA continuation coverage, which is a temporary extension of coverage under the Plan. This notice generally explains COBRA continuation coverage, when it may become available to you and your family, and what you need to do to protect the right to receive it. COBRA, and the description of COBRA coverage contained in this notice, applies only to the group health plan benefits offered under the Plan (medical, dental, vision, and health care FSA plans) and not to any other benefits offered under the Plan or by TriNet.

The right to COBRA coverage was established by a federal law, the Consolidated Omnibus Reconciliation Act of 1985. COBRA coverage can become available to you when you would otherwise lose group health coverage under the Plan. It can also become available to your spouse, domestic partner and dependent children, if they are covered under the Plan, when they would otherwise lose their group health coverage under the Plan. This notice does not fully explain COBRA coverage or other rights under the Plan. For additional information about your rights and obligations under federal law, you should review the Plan's Guidebook and Summary Plan Description available by logging in at [login.trinet.com](http://login.trinet.com) or contact TriNet, which is the Plan Administrator. The Plan provides no greater COBRA rights than what COBRA requires.

#### *You May Have Other Options Available to You When You Lose Group Health Coverage*

For example, you may be eligible to buy an individual plan through the Health Insurance Marketplace. By enrolling in coverage through the Marketplace, you may qualify for lower costs on your monthly premiums and lower out-of-pocket costs. Additionally, you may qualify for a 30-day special enrollment period for another group health plan for which you are eligible (such as a spouse's plan), even if that plan generally doesn't accept late enrollees.

### **2. What is COBRA Coverage?**

COBRA continuation coverage is a continuation of Plan coverage when coverage would otherwise end because of a life event known as a "qualifying event." Specific qualifying events are listed later in this notice. After a qualifying event occurs and any required notice of that event is properly provided to TriNet, COBRA continuation coverage must be offered to each person losing Plan coverage who is a "qualified beneficiary." A qualified beneficiary is someone who will lose coverage under the Plan because of a qualifying event. Depending on the type of qualifying event, employees, spouses of employees, domestic partners of employees and dependent children of employees may be qualified beneficiaries. (Certain newborns, newly adopted children, and alternate recipients under QMCSOs may also be qualified beneficiaries.) Under the Plan, qualified beneficiaries who elect COBRA continuation coverage must pay for COBRA continuation coverage.

### **3. Who Is Entitled to Elect COBRA?**

If you are an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because either one of the following qualifying events occurs:

- Your hours of employment are reduced; or
- Your employment ends for any reason other than your gross misconduct.

If you are the spouse or domestic partner of an employee, you will become a qualified beneficiary if you will lose your coverage under the Plan because any of the following qualifying events happens:

- Your spouse or domestic partner dies;
- Your spouse's or domestic partner's hours of employment are reduced;
- Your spouse's or domestic partner's employment ends for any reason other than his or her gross misconduct;
- Your spouse or domestic partner becomes enrolled in Medicare (Part A, Part B, or both); or
- You become divorced or legally separated from your spouse or your domestic partnership ends.

Please note that although TriNet generally offers COBRA continuation coverage to domestic partners in the same way it offers such coverage to eligible spouses, COBRA legislation does not require that domestic partners be covered, and some plans, in accordance with applicable law, may not allow domestic partner coverage.

Your dependent children will become qualified beneficiaries if they will lose coverage under the plan because any of the following qualifying events happens:

- The parent-employee dies;
- The parent-employee's hours of employment are reduced;
- The parent-employee's employment ends for any reason other than his or her gross misconduct;
- The parent-employee becomes enrolled in Medicare (Part A, Part B, or both);
- The parents become divorced or legally separated; or
- The child stops being eligible for coverage under the plan as a "dependent child."

### **4. When is COBRA Coverage Available?**

When the qualifying event is the end of employment or reduction of hours of employment, or death of the employee, the Plan will offer COBRA coverage to qualified beneficiaries.

#### **You Must Give Notice of Some Qualifying Events**

**For the other qualifying events (divorce or legal separation of the employee and spouse, end of a domestic partnership, or a dependent child's losing eligibility for coverage as a**



dependent child), you must notify the Plan Administrator. The Plan requires you to notify the Plan Administrator within 60 days after the qualifying event occurs. You must send notice to [employees@trinet.com](mailto:employees@trinet.com) or Fax to 510.352.6480. The Plan Administrator may require that you send a copy of the supporting information or documentation. If these procedures are not followed or if notice is not provided to TriNet during the 60-day notice period, THEN ALL QUALIFIED BENEFICIARIES WILL LOSE THEIR RIGHT TO ELECT COBRA.

### **Special Rules In The Event The Relationship Between Your Company And TriNet Terminates**

Termination of the service agreement between your company and TriNet does not always constitute a qualifying event. Whether or not you are entitled to COBRA depends on any number of factors. For more information, please refer to the Plan's Guidebook and Summary Plan Description available at [login.trinet.com](http://login.trinet.com).

### **Electing COBRA**

Each qualified beneficiary will have an independent right to elect COBRA. Covered employees, spouses, and domestic partners (if the spouse or domestic partner is a qualified beneficiary) may elect COBRA on behalf of all the qualified beneficiaries, and parents may elect COBRA on behalf of their children. **Any qualified beneficiary for whom COBRA is not elected within the 60-day period specified in the Plan COBRA election notice WILL LOSE HIS OR HER RIGHT TO ELECT COBRA.**

### **5. How Long Does COBRA Coverage Last?**

COBRA coverage is a temporary continuation of coverage. When the qualifying event is the death of the employee, enrollment of the employee in Medicare (Part A, Part B, or both), your divorce or legal separation, or end of domestic partnership, or a dependent child losing eligibility as a dependent child, COBRA continuation coverage lasts for up to 36 months.

When the qualifying event is the end of employment or reduction of the employee's hours of employment, COBRA continuation coverage lasts for up to 18 months. There are two ways in which this 18-month period of COBRA continuation coverage can be extended. COBRA coverage under the health care FSA component can last only until the end of the year in which the qualifying event occurred - see the paragraph below entitled "Health Care FSA Component."

#### *Disability extension of 18-month period of continuation coverage*

If you or anyone in your family covered under the Plan is determined by the Social Security Administration to be disabled at any time during the first 60 days of COBRA continuation coverage and you notify the Plan Administrator in a timely fashion, you and your entire family can receive up to an additional 11 months of COBRA continuation coverage, for a total maximum of 29 months. You must make sure that the Plan Administrator is notified of the Social Security Administration's determination within 60 days of the date of the determination and before the end of the 18-month

period of COBRA continuation coverage. This notice should be sent via email to [employees@trinet.com](mailto:employees@trinet.com) or faxed to 510.352.6480. You must include copies of the applicable supporting information or documentation.

*Second qualifying event extension of 18-month period of continuation coverage*

If your family experiences another qualifying event while receiving COBRA continuation coverage, the spouse and dependent children in your family can get additional months of COBRA continuation coverage, up to a maximum of 36 months. This extension is available to the spouse and dependent children if the former employee dies, enrolls in Medicare (Part A, Part B, or both), or gets divorced or legally separated. The extension is also available to a dependent child when that child stops being eligible under the Plan as a dependent child.

**In all of these cases, you must make sure that the Plan Administrator is notified of the second qualifying event within 60 days of the second qualifying event. This notice must be emailed to [employees@trinet.com](mailto:employees@trinet.com) or faxed to 510.352.6480. The Plan Administrator may require that you send a copy of the supporting information or documentation.**

**When COBRA Ends**

COBRA coverage will expire at the end of the applicable COBRA period, which normally is either 18, 29, or 36 months, depending on the circumstances. COBRA may be terminated early for any of the following reasons:

- a. A required premium is not paid in a timely manner. Non-payment, payments not received by TriNet, underpayment, late payment, non-negotiable checks, or checks returned for insufficient funds (NSF), even if deposited into our automated deposit system, will result in termination of coverage retroactive to the end of the month of your last full premium payment. If you incur medical/dental/vision expenses during a month in which you have not paid your COBRA premiums on time or in full, you will be responsible for your health care costs because your COBRA continuation coverage will be terminated. Any insufficient or late payments deposited into our automated deposit system do not indicate your coverage has been reinstated, and will be returned to you.
- b. An individual becomes entitled to Medicare. The spouse and children, however, may remain on COBRA as qualified beneficiaries for the remainder of the 18 or 29 months (or 36 months if a second qualifying event occurs).
- c. The qualified beneficiary becomes covered, after the date of COBRA coverage election, under a group health plan maintained by another employer that does not exclude or limit coverage for a qualified beneficiary's pre-existing condition and/or the coverage is comparable coverage to what the qualified beneficiary is receiving under COBRA.

## Health Care FSA Component

COBRA coverage under the health care FSA will only be offered to qualified beneficiaries losing coverage who have underspent accounts. An account is underspent if your reimbursable claims, submitted up to the time of the qualifying event, are less than your annual election. COBRA coverage will consist of your annual health care election minus reimbursed claims. The use-it-or-lose-it rule will continue to apply. Any unused amounts will be forfeited at the end of the plan year and you will not be eligible for health care FSA in the new plan year. Unless otherwise elected, all qualified beneficiaries who were covered under the health care FSA will be covered together for health care COBRA FSA coverage. Each COBRA FSA participant is responsible for 102% of the 1/12 of the annual pledge each month for the remainder of the plan year.

## More Information About Individuals Who May be Qualified Beneficiaries

*Children born to or placed for adoption with the covered employee during COBRA coverage period*

A child born to, adopted by, or placed for adoption with a covered employee during a period of COBRA coverage is considered to be a qualified beneficiary provided that, if the covered employee is a qualified beneficiary, the covered employee has elected COBRA coverage for himself or herself. The child's COBRA coverage begins when the child is enrolled in the Plan, whether through special enrollment or open enrollment, and it lasts for as long as COBRA coverage lasts for other family members of the employee. To be enrolled in the Plan, the child must satisfy the otherwise applicable Plan eligibility requirements (for example, regarding age).

*Alternate recipients under QMCSOs*

A child of the covered employee who is receiving benefits under the Plan pursuant to a qualified medical child support order (QMCSO) received by TriNet during the covered employee's period of employment with TriNet is entitled to the same rights to elect COBRA as an eligible dependent child of the covered employee.

## 6. If You Have Questions

If you have questions about your COBRA continuation coverage, you should contact the TriNet Solution Center at 800.638.0461, 4:30 a.m. to 9 p.m. PT, Monday through Friday or send an email to [employees@trinet.com](mailto:employees@trinet.com), or you may contact the nearest Regional or District Office of the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website at [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

## 7. Keep Your Plan Informed of Address Changes

In order to protect your family's rights, you should keep the Plan Administrator informed of any changes in the addresses of family members. You should also keep a copy, for your records, of any notices you send to the Plan Administrator.

## **8. Contact Information**

For more information, please contact the TriNet Solution Center at 800.638.0461, 4:30 a.m. to 9 p.m. PT, Monday through Friday or emailing [employees@trinet.com](mailto:employees@trinet.com).

### **Notice Procedures**

All notices including address changes, disability extension request, life status changes and second qualifying events must be written and, if applicable, submitted on Plan forms. Oral notice, including notice by telephone, is not accepted. You may email or fax notifications as follows:

**Email:** [employees@trinet.com](mailto:employees@trinet.com)

**Fax:** 510.352.6480